

**LETTER OPINION**  
**96-L-51**

March 26, 1996

Honorable Dan Wogsland  
State Senator  
302 13th Street SE  
Cooperstown, ND 58425

Dear Senator Wogsland:

Thank you for your letter requesting an opinion regarding whether it is possible for a school board of a reorganized school district to close an elementary school without actually making a motion to do so, or without a four-fifths or 80% vote.

State law provides:

Each elementary school included in reorganized school districts must be kept in session as provided by law, except that any school may be discontinued when the school board in the district where the school is located, by a four-fifths vote, approves its closing. . . .

N.D.C.C. § 15-27.3-14. "This statute applies to each elementary school included in a reorganized school district that was in existence at the time of reorganization." Letter from Attorney General Nicholas Spaeth to David O'Connell (December 19, 1989).

The North Dakota Supreme Court has stated:

It must be presumed that the Legislature intended all that it said, and that it said all that it intended to say. The Legislature must be presumed to have meant what it has plainly expressed. It must be presumed, also, that it made no mistake in expressing its purpose and intent. Where the language of a statute is plain and unambiguous, the "court cannot indulge in speculation as to the probable or possible qualifications which might have been in the mind of the legislature, but the statute must be given effect according to its plain and obvious meaning, and cannot be extended beyond it."

City of Dickinson v. Thress, 290 N.W. 653, 657 (N.D. 1940) (citations omitted) (quoting 59 C.J. pp. 955-957).

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N.D.C.C. § 15-27.3-14 clearly provides that to close an elementary school in a reorganized school district that existed at the time of the district reorganization, the school board must approve its closing by a four-fifths or 80% vote. In order to accomplish this, the school board must necessarily have before it a motion to approve the closing of that particular elementary school.

In conclusion, it is my opinion that a school board of a reorganized school district may not close an elementary school in existence at the time of the district reorganization without actually making a motion to do so and without a four-fifths or 80% vote.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

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